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UNITED STATES PATENT AND TRADEMARK OFFICE

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09/821,920	03/30/2001	Samuel Daniel Dull III	ROC920010099US1	7671

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12 February 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

    4a) Of the above claim(s) <u>7-11,15,17 and 19</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5,12-14,16,18 and 20-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 March 2001</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment filed on February 12, 2007.

2. Claims 1-5, 12-14, 16, 18, and 20-28 have been examined.

Response to Amendments

3. Per Applicants' request, claims 1-2, 4-5, 12, 16, 18, 20, 22-23, and 26 have been amended. Claims 27-28 have been added and claims 7-11, 15, 17, and 19 have been canceled.

4. The examiner notes that the Applicants added new claims 27-28 without any mention in the Remarks as well as pointing out text portions/figures supporting these limitations. For a proper prosecution record, the examiner respectfully requests the Applicants address this issue and point out the supporting text portions/figures in the next communication with the Office.

Drawings

5. The drawings are objected to because of minor informalities. FIG. 3, block 305 to block 306, "Pass" should be - -Fail- -   and block 305 to block 307, "Fail" should be - - Pass- -.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The specification is objected to because of minor informalities. Acronyms should be spelled out at the first appearance in the specification (e.g., "EDVAC" in page 2, line 9).

Appropriate correction is required.

Response to Arguments

7. The Applicants are thanked for a thorough reply. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections – 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5, 12-14, 16, 18, and 20-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,167,567 to Chiles et al. (art made of record, hereinafter "Chiles").

Claim 1:

Chiles discloses *a method of upgrading a computer program installed on a first computer system, the computer program including a script processing module, the method comprising:*

receiving an upgrade object associated with the computer program, the upgrade object including a script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to upgrade the computer program (e.g., col. 27-28, Tables 1 and 2, First and Second Example Update Scripts; FIG. 3, Update Scripts associated with computer program 330/335/340, col.11: 56-67),

the script being not independently executable without the script processing module (e.g., FIG. 6, Software Updating Application 500, col.19: 31-44; Update Script INI Processor 620, which reads/parses the Update Scripts, col.23: 8-20, col.22: 8-28, emphasis added),

the upgrade object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer system (e.g., col.8: 32-49; FIG. 4A, col.12: 42 – col. 13: 32); and

performing an upgrade of said computer program by compiling and executing the script on said first computer system with the script processing module (e.g., FIG. 4B, col.13: 33 – col.14: 58).

Claim 2:

The rejection of claim 1 is incorporated. Chiles also discloses *instructing the script processing module to execute the script* (e.g., col.23: 8-20; col.22: 8-28).

Claim 3:

The rejection of claim 1 is incorporated. Chiles also discloses *the upgrade object is associated with one or more prerequisites; and further comprising determining if the one or more prerequisites have been met, said step of performing an upgrade of said computer system by compiling and executing the script being performed responsive to determining if the one or more prerequisites have been met* (e.g., FIG. 4A, block 454, checking Update Version against Installed Version to determine prerequisites have been met, col.13: 33-47).

Claim 4:

The rejection of claim 1 is incorporated. Chiles also discloses *automatically reporting from said first computer system to said second computer system that the script has been executed* (e.g., FIG. 4B, block 472-492, col.14: 16-58; FIG. 5C, block 567, col.17: 50-67).

Claim 5:

The rejection of claim 1 is incorporated. Chiles also discloses *the upgrade object is transmitted from said first computer system to said second computer system by electronic mail* (e.g., FIG. 3, HTTP/TCP/FTP Servers including mail server, col.8: 4-14).

Claim 12:

Chiles discloses *a method of upgrading a computer program installed on a first computer system, the computer program including a script processor, the method comprising:*

creating an upgrade object associated with the computer program on a second computer system remote from said first computer system (e.g., col. 27-28, Tables 1 and 2),

the upgrade object including a script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processor to upgrade the computer program (e.g., FIG. 6, Software Updating Application 500, col.19: 31-44; Update Script INI Processor 620, col.23: 8-20, col.22: 8-28),

the script being not independently executable without the script processor (e.g., Update Script INI Processor 620 reads/parses Update Scripts, col.23: 8-20, col.22: 8-28);

transmitting the upgrade object from the second computer system to the first computer system (e.g., col.8: 32-49; FIG. 4A, col.12: 42 – col.13: 32); *and*

instructing an end user to perform an upgrade of said computer program by compiling and executing the script with the script processor (e.g., FIG. 4B, col.13: 33 – col.14: 58).

Claim 13:

The rejection of claim 12 is incorporated. Chiles also discloses *the upgrade object presents the end user with instructions to perform a task* (e.g. FIG. 5B, col.16: 15-43).

Claim 14:

The rejection of claim 13 is incorporated. Chiles also discloses *the upgrade object prompts the end user to indicate that the task has been performed* (e.g., FIG. 4B, blocks 484-492, col.14: 38-58).

Claim 16:

Chiles discloses *a method of upgrading a computer program on a first computer system, comprising:*

(i) *installing a computer program on the computer system, the computer program including a script processing module* (e.g., FIG. 6, col.19: 31-44; col.23: 8-20; col.22: 8-28);

(ii) *receiving an upgrade object associated with the computer program* (e.g., col. 27-28, Tables 1 and 2),

the upgrade object including a script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module (e.g., FIG. 5AQ, blocks 514-515, col.15: 46-65) *and*

a prerequisite field containing one or more prerequisites for executing the script (e.g., FIG. 4A, block 454, a prerequisite field not met → block 460 Finish, col.13: 32 – col.14: 15),

the upgrade object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer system (e.g., col.8: 32-49; FIG. 4A, col.12: 42 – col.13: 32); *and*

(iii) instructing the computer program to process the upgrade object, whereby the upgrade object causes the computer system to:

determine if the one or more prerequisites have been met (e.g., FIG. 4A-B, block 454 a prerequisite met → blocks 468 → ... → block 486 Update Completed? YES, col.13: 33 – col.14: 58); *and*

responsive to determining that the one or more prerequisites have been met, instruct the script processing module to execute the script; and report that the script has been executed (e.g., col.13: 33 – col.14: 58; col.16: 15-43).

Claim 18:

Chiles discloses *a method of installing a computer program into an instruction processing environment on a first computer system, the instruction processing environment including a script processing module, the method comprising:*

receiving an installation object associated with the computer program (e.g., col.27-28, First and Second Example Update Scripts),

the installation object including script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to install the computer program into the instruction processing environment on said first computer system (e.g., col.19: 31-44; col.23: 8-20; col.22: 8-28),

the script being not independently executable without the script processing module (e.g., FIG. 6, Update Script INI Processor 620 reads/parses Update Scripts, col.23: 8-20, col.22: 8-28),

the installation object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer (e.g., col.8: 32-49; FIG. 4A, col.12: 42 – col.13: 32); *and*

installing said computer program into said instruction processing environment by compiling and executing the script with the script processing module (e.g., FIG. 4B, col.13: 33 – col.14: 58).

Claim 20:

The rejection of claim 18 is incorporated. Chiles also discloses *the installation object is associated with one or more prerequisites; and further comprising determining if the one or more prerequisites have been met, said step of installing said computer program into said instruction processing environment by compiling and executing the script with the script processing module being performed responsive to determining that the one or more prerequisites have been met* (e.g., FIG. 4A, col.13: 33-47).

Claim 21:

The rejection of claim 18 is incorporated. Chiles also discloses *reporting that the instruction set has been executed* (e.g., col.14: 38-58).

Claim 22:

The rejection of claim 18 is incorporated. Chiles also discloses *the installation object transmitted from said first computer system to said second computer system by electronic mail* (e.g., col.8: 4-14).

Claim 23:

Chiles also discloses *a method of installing a computer program into an instruction processing environment on a first computer system, the instruction processing environment including a script processing module, the method comprising:*

creating an installation object associated with the computer program on a second computer system remote from said first computer system (e.g., col.27-28),

the installation object including a script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to install the computer program into the instruction processing

environment on said first computer system, (e.g., col.19: 31-44; col.23: 8-20; col.22: 8-28)

> *the script being not independently executable without the script processing module* (e.g., FIG. 6, Update Script INI Processor 620, col.23: 8-20; col.22: 8-28);

> *transmitting the installation object from the second computer system to the first computer system* (e.g., col.8: 32-49; FIG. 4A, col.12: 42 – col.13: 32); *and*

> *instructing an end user to install said computer program into said instruction processing environment by compiling and executing the script with the script processing module* (e.g., col.13: 33 – col.13: 58; col.16: 15-43, col.14: 38-58).

Claim 24:

The rejection of claim 23 is incorporated. Chiles also discloses *the installation object presents the end user with instructions to perform a task* (e.g., col.16: 15-43).

Claim 25:

The rejection of claim 24 is incorporated. Chiles also discloses *the installation object prompts the end user to indicate that the task has been performed* (e.g., col. 14: 38-58).

Claim 26:

Claim 26 recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claim, they also teach all of the limitations of claim 26.

Claim 27 (new):

The rejection of claim 16 is incorporated. Chiles also discloses:

> *step (ii) comprises receiving a plurality of upgrade objects associated with the computer program, each upgrade object including a respective script comprising a respective plurality of script instructions of said pre-defined instruction set, at least one*

said upgrade object including a respective prerequisite field containing one or more respective prerequisites for executing the respective script (e.g., col.27-28), wherein

step (iii) comprises instructing the computer program to process said plurality of upgrade objects, said plurality of upgrade objects causing the computer system to execute the scripts in a sequence consistent with said prerequisite fields (e.g., col.13: 33 – col.14: 58).

Claim 28 (new):

The rejection of claim 27 is incorporated. Chiles also discloses *there exists a plurality of different sequences of executing said scripts which are consistent with said prerequisite fields* (e.g., col.13: 33-47).

Conclusion

10. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on the first Monday of the bi-week, and every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.
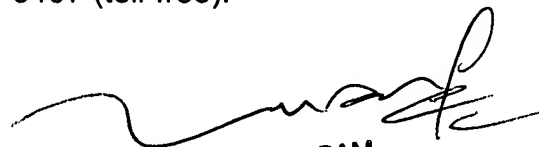
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao

TUAN DAM
SUPERVISORY PATENT EXAMINER